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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,791	08/19/2003	Anthony A. Gallo	3833-030392 (LDEO-108)	7402

7590 03/14/2006

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EXAMINER

SELLERS, ROBERT E

ART UNIT PAPER NUMBER

1712

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/644,791	Applicant(s) GALLO ET AL.	
	Examiner Robert Sellers	Art Unit 1712	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See the attachment.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Robert Sellers
 Primary Examiner
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1. Japanese Patent No. 11-100492 (page 4, paragraphs 22 and 23) discloses from 1-20 wt% of flame retardant including melamine cyanurate and from 0-5 wt% of the flame retardant (or 0-1 wt% of the total composition) of an inorganic flame retardant such as a metal oxide. The flame retardant in general is held within the broad range to balance the fire resistance with the elevated temperature dependability and solder thermal resistance. Thus, Japanese '492 establishes the provision of fire resistance with elevated temperature dependability and solder thermal resistance by incorporating from 1-19 wt% of melamine cyanurate and 1 wt% of metal oxide.
2. The conclusions based on Table 3 of Japanese '492 cannot be corroborated since only Japanese versions thereof are presented in the Japanese patent itself and the translation.
3. The declaration filed April 14, 2005 is not commensurate in scope with the claims regarding a representative sampling of the transition Group VIA metal oxide. The testing of only tungsten trioxide does not indicate the same performance will result when using the other oxides of Group VIA metals such as chromium and molybdenum including those with various oxygen contents. Sample A containing 6.00 parts by weight of tungsten trioxide and 4.00 parts by weight of melamine cyanurate does not correlate to independent claims 12 and 27 denoting smaller proportions of from about 0.1-2 wt% of tungsten trioxide and from about 0.1-3.5 wt% of melamine cyanurate.
4. The other flame retardant in Japanese '492 is not confined to the nickel oxide (a transition metal oxide) shown in Table 1 on page 6. The other flame retardant embraces metal oxides in general according to page 4, paragraph 22, line 2.

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5. Gallo Patent No. 6,432,540 (col. 1, lines 38-46) ascribes a good full cure, low moisture absorption and good high temperature electrical reliability to the use of the preferred tungsten trioxide (col. 3, line 12 and col. 4, line 3). Such features are not mitigated just because they are designated as improvements over previous flame retardants such as antimony trioxide and phosphorus compounds. One of ordinary skill in the art would employ the preferred antimony trioxide of Gallo as the metal oxide of Japanese '492 in order to provide a good full cure, lower the moisture absorption and improve the high temperature electrical reliability, and to provide fire retardance without harming the hardenability (Japanese Patent No. 11-269347, page 4, paragraph 11, lines 4-5).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Sellers whose telephone number is (571) 272-1093. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



Robert Sellers
Primary Examiner
Art Unit 1712